

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Truth-in-Billing) CC Docket No. 98-170
)
and)
)
Billing Format)
_____)

COMMENTS OF THE UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA),¹ through counsel and pursuant to the Notice of Proposed Rulemaking² released by the Federal Communications Commission (FCC) on September 17, 1998, hereby submits its comments concerning the content and format of customers' telephone bills. USTA believes that it may be appropriate for the FCC to adopt general principles that acknowledge the need of telephone customers to receive a telephone bill that is clear, concise, accurate, and provides sufficient information to allow customers to question and correct unauthorized or erroneous charges. Any such principles, though, should also acknowledge that in a competitive environment, telephone bills can be an important element in how telecommunications carriers provide service to their customers, how they communicate with

¹ USTA represents more than 1200 small, mid-size and large communications companies worldwide. USTA members are facilities-based carriers that serve end-users and endorse the concept of universal service.

² *Truth-in-Billing and Billing Format*, Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 98-232 (rel. Sept. 17, 1998) (Notice).

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those customers, and how they differentiate themselves from one another in the eyes of those customers.

USTA's members understand that fair and reasonable billing practices are an important customer care function and are critical in generating customer good will. Customers who are unhappy with their carriers will look for another service provider to satisfy their communications needs. Carriers concerned with acquiring and retaining customers have a clear incentive to employ billing practices that are both reasonable and responsive to the needs of their customers.

USTA's members are committed to providing their customers with:

1. an accurate bill that provides a clear, concise description of the service(s) being billed;
2. a bill for authorized services only;
3. full disclosure of all terms and conditions; and
4. prompt and courteous treatment for all disputed charges.

USTA does not believe that it is either necessary or useful for the FCC to prescribe how carriers implement these principles. It is essential that carriers be afforded the flexibility to conduct themselves responsively and responsibly in their various billing contacts with customers, without unnecessary regulatory constraints. Carrier-customer billing interactions take place in a dynamic environment. A prescriptive set of billing content and format rules will only serve to inhibit carriers' ability to quickly respond to changing customer needs. Further, it should not be assumed that any one billing format is desirable for all customers. Differences between residence and business customers can dictate different content and format approaches. Additional bill differentiation within the residence and business service classes may also be

appropriate based on customer needs or demands. Accordingly, USTA urges the FCC to opt for principles over prescriptions in the area of bill content and format. This approach will allow carriers to timely and reasonably respond to customers' billing needs that sometimes change and often vary by customer segment.

DISCUSSION

A. The FCC Should Balance Customer and Carrier Interests

The Notice indicates that "the goal of this proceeding is to construct, with the help of the states, consumer groups, and the industry, workable solutions to enable consumers to reap the benefits of the competitive telecommunications marketplace while at the same time protecting themselves from unscrupulous competitors."³ To the extent that this means that the FCC will serve as a collection point and information clearinghouse for carriers seeking "workable solutions" as they consider changes to their bills, USTA believes that the FCC's effort could produce positive benefits for carriers and their customers. If, instead, it means that the FCC intends to adopt a uniform set of billing content and format rules applicable to all telecommunications carriers, the result could prove counter-productive for all concerned.

It is unquestionable that a very small minority of unscrupulous carriers and service providers have abused and defrauded customers and brought unflattering attention to an industry

³ Id. at ¶ 6.

that has a long tradition of excellence in the area of customer care services. USTA believes that we must shine a spotlight on these bad actors and quickly isolate them so that carriers, customers, law enforcement and regulators can use the means at their disposal to take appropriate remedial and punitive action. Nonetheless, it should also be understood that inflexible and costly rules concerning billing content and format can exacerbate the problem and disserve customers.

It will be impossible for the FCC to arrive at a set of rules that will work well for all customers. Rules may render carriers unable to quickly respond to the needs of different customer segments and changing customer demands. If the FCC wants customers to realize the benefits of the competitive marketplace, then it must resist the temptation to micro-manage the carrier-customer billing relationship. Rather, it should consider adopting a generally applicable set of principles that would complement existing federal and state consumer protection laws, as well as current state laws and regulations applicable to telephone bills.

The FCC states that it is mindful "of the costs incurred by carriers when preparing consumer bills."⁴ USTA agrees that there must be a balancing of costs and benefits as the FCC seeks to assure that customers receive accurate and understandable telephone bills.⁵ The issue of costs underscores why it is far more constructive for the FCC to adopt flexible principles rather than rules. For example, the FCC suggests that one means to provide visual separation on a bill in order to allow customers to better identify charges for new services is to separate categories of

⁴ *Id.* at ¶ 11.

⁵ *Id.*

service, on separate pages if possible.⁶ A small USTA member company has advised that presenting separate categories of service on separate bill pages can add significant expense to rendering the bill. In the case of this carrier, adding an additional page to its bill will push the weight of the mailing above two ounces. Crossing the two ounce threshold increases its postage costs by \$600,000 per year, a significant impact for a small telephone company. This carrier ought to have the flexibility to use other approaches to ensure that its customers can clearly distinguish a new service from existing services and different categories of service.

Some suggested changes to customer bills also raise issues for a number of local exchange carriers (LECs) related to the capabilities of their billing systems. Many of the legacy billing systems used by LECs have limited capabilities with respect to changing bill formats or including significantly more information. A USTA member has indicated that its billing system has a 30 character limitation for each code description on customer bills. The only way that some LECs can make some suggested bill content and format changes will be by making expensive billing system upgrades or by replacing existing billing systems. Those companies that out-source their billing may also be constrained by the systems limitations of their billing contractors.

⁶ *Id.* at ¶ 17.

B. Legal Authority

The FCC asks for comment on “whether the Commission has jurisdiction to adopt each of the proposals in this Notice and ask[s] commenters to address the jurisdictional basis of any additional proposals raised on the record of this proceeding.”⁷ USTA believes that the FCC sends the wrong signal with this inquiry. The FCC should not be exploring its ability to adopt a comprehensive set of rules applicable to the content and format of carriers’ bills. USTA agrees with Commissioner Susan Ness that it is not “necessary for the government to require — or to forbid — specific line items on consumers’ bills.”⁸

USTA, like Commissioner Harold Furchtgott-Roth, has “deep reservations about the extent of the Commission’s authority over the commercial relationship between carriers and their customers.”⁹ USTA is also concerned about the practical problems inherent in comprehensive FCC bill content and format rules. The FCC’s authority to address the unreasonable practices of common carriers does not give it the unfettered right to dictate the content and format of telephone bills. The FCC acknowledges that it must be “cognizant of the First Amendment considerations that must inform [its] efforts to ensure that customers are truthfully informed of the significance of entries on their bills.”¹⁰ Rather than proceed down a path that portends of

⁷ Id. at ¶ 13.

⁸ Id., Separate Statement of Commissioner Susan Ness, at p. 33.

⁹ Id., Separate Statement of Commissioner Harold Furchtgott-Roth, at p. 35.

¹⁰ Id. at ¶ 15.

challenges to its exercise of jurisdiction in this area, the FCC should consider adopting principles that can serve to guide, rather than prescribe, the conduct of carriers with respect to the content and format of customer telephone bills. Further, to the extent that a particular carrier's billing practices are an issue brought before the FCC through a complaint or other procedural vehicle, principles can serve as a guidepost to the FCC in evaluating whether the subject practice is unjust or unreasonable. Principles would give the FCC greater flexibility to deal with the creativity that has been demonstrated by the bad actors who seek to take advantage of customers. No set of rules, no matter how comprehensive, can anticipate and address the universe of unjust and unreasonable practices that may be employed by unscrupulous carriers.

The FCC need not duplicate or attempt to supercede the efforts of other state and federal agencies and commissions that have clear jurisdiction over the consumer protection aspects of telephone bills. There are agencies and commissions that have more experience in handling consumer protection issues and who are more likely to hear from end-user customers on a real-time basis about the concerns and problems that they have with telephone bills. The FCC should be especially sensitive to the fact that many state public utility commissions have rules applicable to the telephone bills of LECs. The adoption of duplicative rules would serve no useful purpose. The adoption of conflicting rules (which is the likely outcome if the FCC adopts billing rules since it would be impossible for the FCC to harmonize its rules with all the different billing rules that exist in the states) would be counter-productive. Accordingly, USTA urges the FCC to refrain from adopting national rules concerning the content and format of telephone bills.

If the FCC chooses to act, it should, within the limits of its jurisdiction, adopt principles concerning the provision of accurate, clear and concise bills for authorized services.

C. Content and Format

USTA agrees with the FCC that telephone bills should be readable and present important information in a clear and conspicuous manner.¹¹ USTA also agrees that descriptions of charges should not be misleading.¹² In the Anti-Cramming Best Practices Guidelines, which are supported by USTA, it is recommended that service providers be adequately identified on telephone bills, that bill pages should adequately display the toll free number that the end-user customer is to call with any questions or requests for corrections, and that non-deniable charges (charges for which failure to pay will not result in disconnection of local telephone service) should be uniquely identified as such.¹³ As stated herein at page 2, USTA believes that telephone bills should be accurate and that the charges billed should be authorized.

CONCLUSION

USTA submits that principles such as those set forth above in section C are far superior

¹¹ *Id.* at ¶ 16.

¹² *Id.* at ¶ 20.

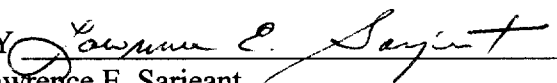
¹³ *Anti-Cramming Best Practices Guidelines* at p. 13.

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to detailed rules for evaluating the content and format of telephone bills.¹⁴ Accordingly, USTA urges the FCC to forgo consideration of telephone bill rules. To the extent that the FCC elects to take action with respect to telephone bills, it should consider adopting an appropriate set of principles that will allow a fair balance to be struck between consumer and carrier interests.

Respectfully submitted,

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¹⁴ USTA agrees with the FCC that a critical aspect of truth-in-billing is the care given to customers by customer service representatives who respond to customer inquiries and complaints. See Notice at ¶ 34.